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DRAFTED BY ARA/APU:JMSMITH:MMG

APPROVED BY ARA:AFISHLOW

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FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES PRIORITY

C O N F I D E N T I A L STATE 011922

E.O. 11652: GDS

TAGS: EINV, AR

SUBJECT: ARGENTINE INVESTMENT CASES

1. DEPUTY ASSISTANT SECRETARY FISHLOW CALLED IN AMBASSADOR VAZQUEZ JANUARY 16 TO DISCUSS CASES OF EXPROPRIATED US FIRMS IN ARGENTINA AND ARGENTINA'S ELIGIBILITY FOR GSP. ALSO PRESENT AT THE MEETING WERE ARGENTINE EMBASSY FIRST SECRETARY VICTOR BEAUGE, FRANK MARESCA OF TREASURY, RICHARD SMITH (EB) AND JACK SMITH (ARA).

2. MR. FISHLOW SAID THE USG HAD BEEN GOING THROUGH AN INTERAGENCY PROCESS TO CONSIDER THE QUESTION OF GSP ELIGIBILITY OF COUNTRIES WHICH HAD EXPROPRIATED US FIRMS. THE ARGENTINE QUESTION WAS A PARTICULARLY DIFFICULT ONE IN WHICH THE SECRETARIES OF STATE AND TREASURY HAD TAKEN A PERSONAL INTEREST. IT WAS THE USG DESIRE TO WORK TOGETHER WITH THE GOA TO FIND A WAY TO HANDLE THIS ISSUE TO
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ELIMINATE IT AS A POTENTIAL SOURCE OF FRICTION BETWEEN THE

TWO GOVERNMENTS AND AS A PROBLEM FOR THE US FIRMS.

MR. FISHLOW SAID HE HAD BECOME PERSONALLY INVOLVED BECAUSE OF HIS INTEREST IN THE DEVELOPMENT PROCESS IN ARGENTINA AND THAT COUNTRY'S NEED FOR ACCESS TO FOREIGN CAPITAL MARKETS. SOLUTION OF THESE INVESTMENT CASES WOULD CREATE A NEW CLIMATE WHICH WOULD MAXIMIZE THE POTENTIAL FOR THE ECONOMIC DEVELOPMENT OF ARGENTINA.

3. MR. FISHLOW SAID WE WOULD LIKE TO REACH AGREEMENT WITH THE GOA ON A SERIES OF CONCRETE STEPS WHICH COULD REALISTICALLY BE TAKEN WITHIN THE NEXT 60 DAYS. WE FELT IT SHOULD BE POSSIBLE TO MAKE PROGRESS IN EACH OF THESE CASES AND TO REACH A FINAL SOLUTION IN AT LEAST ONE. WE WOULD LIKE TO OFFER SOME SUGGESTIONS AS TO THE KINDS OF STEPS WHICH WOULD APPEAR PRACTICABLE WITHIN THE 60-DAY PERIOD. WE DID NOT INTEND TO IMPOSE OUR OWN DECISION, BUT WISHED TO TALK WITH THE GOA IN ORDER TO REACH AGREEMENT ON A PROGRAM OF ACTIONS ACCEPTABLE TO BOTH GOVERNMENTS. THE GOA MIGHT WISH TO SUGGEST OTHER STEPS EQUIVALENT TO THOSE SUGGESTED BY US. MR. FISHLOW SAID HE WOULD PRESENT CERTAIN SUGGESTIONS TO THE AMBASSADOR TODAY. THEN, ON JANUARY 22, HE WOULD PLAN TO DISCUSS THE MATTER ON THE TELEPHONE WITH SECRETARY DI TELLA. DEPENDING ON THE OUTCOME OF THAT CONVERSATION, A STATE-TREASURY TEAM MIGHT POSSIBLY GO TO BUENOS AIRES FOR FURTHER TALKS.

4. WITH RESPECT TO CHASE MANHATTAN, MR. FISHLOW POINTED OUT THAT SO FAR THERE HAS BEEN NO REAL NEGOTIATION REGARDING THE AMOUNT OF COMPENSATION. IT SEEMED TO US THAT THE VALUE OF CHASE ASSETS SHOULD BE FIXED, EITHER BY IMPARTIAL EVALUATION OR THROUGH NEGOTIATION.

5. MR. FISHLOW SAID THAT IN THE EXXON CASE IT SEEMED REASONABLE TO ASK THAT THE FIRM BE PERMITTED TO REGISTER ITS CAPITAL UNDER THE FOREIGN INVESTMENT LAW IN ORDER TO PERMIT REPATRIATION OF WHATEVER COMPENSATION MIGHT BE PAID. THE GOA SHOULD ALSO BE ABLE TO AGREE WITH EXXON AS TO JUST WHICH OF THE COMPANY'S ASSETS ARE TO BE NATIONALIZED AND WHAT METHOD WILL BE USED FOR THEIR VALUATION.

6. THE MOST URGENT PROBLEM FOR THE ITT SUBSIDIARY
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(STANDARD), MR. FISHLOW SAID, WAS THAT IT HAS NO CURRENT BUSINESS. THE GOA SHOULD ISSUE SUFFICIENT PURCHASE ORDERS FOR STANDARD SO THAT IT WOULD NO LONGER BE NECESSARY TO BRING IN CAPITAL FROM ABROAD TO SUPPORT THE COMPANY. ALTERNATIVELY, STANDARD SHOULD BE PERMITTED TO REDUCE EMPLOYMENT. SINCE ONLY A PART OF THE GOA'S PAST DEBT TO STANDARD IS IN DISPUTE, SOME OR ALL OF THE OTHER PAST DEBT SHOULD BE RELEASED TO THE COMPANY.

7. MR. FISHLOW SAID THAT ALTHOUGH THE DELTEC CASE IS STILL IN THE COURTS, WE THINK THERE ARE SOME ACTIONS THE GOA COULD TAKE. SOME ASPECTS OF THE CASE HAVE BEEN DECIDED BY THE COURTS. THE GOA, AS LIQUIDATOR, SHOULD ENTER INTO COMMUNICATION WITH DELTEC TO FIND A WAY TO SETTLE THE BANKRUPTCY. IT SHOULD BE POSSIBLE TO MAKE AN ARRANGEMENT FOR A FAIR VALUATION OF THE MEATPACKING PLANT AS A STEP TOWARD PAYING OFF THE CREDITORS AND RELEASING THE OTHER ASSETS, SUCH AS THE LA ESPERANZA SUGAR MILL. MR. FISHLOW POINTED OUT THAT THIS CASE HAS BEEN FIVE YEARS IN THE COURTS WITHOUT ANY MOVEMENT TOWARD COMPENSATION. THERE ARE THOSE WHO ARGUE THAT EXPROPRIATION CAN OCCUR NOT ONLY THROUGH A NATIONALIZATION DECREE BUT ALSO THROUGH COURT ACTION WHICH HAS THE EFFECT OF DENYING JUSTICE.

8. MR. FISHLOW STRESSED THAT THE USG DOES NOT NECESSARILY SAY THAT WE ACCEPT THE POSITION OF THE US FIRMS ON ALL POINTS. WHAT WE DO SAY IS THAT THERE SHOULD BE REAL NEGOTIATIONS WITH THE FIRMS AND THAT THE USG IS READY TO EXTEND ITS OFFICES IF THAT IS DESIRED. HE SAID THAT IT WAS OUR BELIEF THAT IT SHOULD BE POSSIBLE TO TAKE ALL THE PREVIOUSLY OUTLINED STEPS--OR OTHER STEPS EQUIVALENT TO THEM--WITHIN THE NEXT SIXTY DAYS. WE BELIEVE THAT, IN ADDITION, IT SHOULD BE POSSIBLE TO RESOLVE AT LEAST ONE OF THESE CASES. ACTIONS WHICH WOULD CONSTITUTE A RESOLUTION COULD INCLUDE: (A) IN THE CASE OF CHASE MANHATTAN, AGREEMENT ON THE AMOUNT OF COMPENSATION AND THE INTRODUCTION OF LEGISLATION PROVIDING FOR ITS REINVESTMENT IN THE NEW INVESTMENT BANK; (B) IN THE CASE OF EXXON, AN OFFER TO PURCHASE THE ASSETS OR A CONCRETE PLAN FOR ACQUISITION OF THE ASSETS BY PRIVATE INVESTORS AND THE REMITTANCE OF THE COMPENSATION IN ACCORDANCE WITH APPLICABLE ARGENTINE

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LEGISLATION; (C) IN THE CASE OF ITT, GRANTING OF ALL PERMISSIONS NECESSARY TO SELL THE SHERATON HOTEL AND TRANSFER THE PROCEEDS, AN OFFER TO STANDARD OF A SPECIFIC AMOUNT TO PROVIDE FULL COMPENSATION FOR ITS ASSETS AND, IF AGREEABLE TO STANDARD, SUBMISSION OF DRAFT LEGISLATION TO PROVIDE SUCH COMPENSATION; ALTERNATIVELY, TO PRESENT FORMALLY AN ACCEPTABLE CONCRETE PLAN PROVIDING FOR THE ACQUISITION OF THE ASSETS BY PRIVATE ARGENTINE INVESTORS ACCORDING TO A FIXED SCHEDULE AND FOR THE CONVERSION AND REMISSION OF THE COMPENSATION; (D) IN THE CASE OF DELTEC, SALE AT A FAIR PRICE BY THE GOA LIQUIDATOR OF ALL SWIFT ASSETS NECESSARY TO MEET OBLIGATIONS TO SWIFT CREDITORS AND PROMPT RETURN OF ALL OTHER DELTEC ASSETS TO ITS CONTROL.

9. AMBASSADOR VAZQUEZ SAID HE WAS HAPPY TO DISCUSS THIS

PROBLEM WITH US. HE SAID HE BELIEVED THE TIME WAS RIGHT FOR A SETTLEMENT. EVEN THOUGH THE CURRENT GOVERNMENT IN ARGENTINA IS WEAK, MUCH PROGRESS HAS ALREADY BEEN MADE. THERE WERE, HOWEVER, CERTAIN PEOPLE AROUND THE PRESIDENT WHO HAVE NATIONALISTIC VIEWS AND HAVE BEEN TRYING TO HAMPER THE EFFORTS CAFIERO HAS BEEN MAKING TO SOLVE THESE CASES. NEVERTHELESS, HE IS OPTIMISTIC THAT THERE WILL BE SUBSTANTIAL CONCRETE PROGRESS WITHIN THE NEXT 60 DAYS. HE SAID HE WOULD REPORT MR. FISHLOW'S REMARKS TO BUENOS AIRES AND THAT HE WOULD SPEAK ON THE TELEPHONE WITH CAFIERO OR DI TELLA AND DISCUSS THE POSSIBILITY OF A FURTHER MEETING ON THIS PROBLEM.

10. MR. FISHLOW SAID IT MIGHT BE POSSIBLE TO HAVE A MEETING WITH DI TELLA IN 10 TO 15 DAYS. HE EMPHASIZED THAT IT IS IMPORTANT TO RESOLVE THIS PROBLEM BECAUSE THE EFFECT ON THE COMMERCIAL BANKS OF AN EVENTUAL ANNOUNCEMENT THAT THE USG HAD WITHDRAWN GSP FROM ARGENTINA WOULD BE VERY DETRIMENTAL TO ARGENTINA'S FINANCIAL REQUIREMENTS. AMBASSADOR VAZQUEZ REPLIED THAT IF THIS WERE TO HAPPEN THE GOA WOULD LOSE CONTROL OF THE SITUATION AND IT WOULD TAKE A LONG TIME TO REESTABLISH THE GOOD RELATIONS THAT NOW EXIST BETWEEN THE TWO COUNTRIES. NO ONE IN ARGENTINA WOULD BLAME THE GOA FOR WHAT HAPPENED, BUT THE NATION WOULD RALLY AROUND THE ULTRA-NATIONALISTS. THE AMBASSADOR SAID HE DID NOT EXPECT THINGS TO COME TO THIS, HOWEVER, CONFIDENTIAL

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BECAUSE HE WAS CONFIDENT THAT THE INVESTMENT CASES COULD BE RESOLVED IN THE NEAR FUTURE. KISSINGER

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